IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/02/2003

CORAM

THE HONOURABLE MR.JUSTICE V.S.SIRPURKAR
AND
THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

W.P.No.6456 of 2003 and W.P.No.6457 of 2003 and W.P.No. 6458 of 2003

Government of Tamil Nadu
rep. by its Secretary to
Government, Handlooms,
Handicrafts, Textiles &
Khadi (G1) Department
Chennai-9. .. Petitioner

-Vs-

1. M.Radhakrishnan

2. The Registrar
Tamil Nadu Administrative Tribunal
Chennai-104. .. Respondents

PRAYER: Petitions under Article 226 of the Constitution of India for issue of writ of Certiorari as stated therein.

For Petitioner : Mr.P.Chandrasekaran
Spl. Government Pleader

For Respondents : ---

:ORDER

(Order of this Court was made by F.M.IBRAHIM KALIFULLA,J.)

With heavy heart, we are obliged to dismiss these writ petitions while at the same time we wish to give some directions to the State Government for taking appropriate action against the Secretary concerned, who was responsible for having allowed the matter to drift away and thereby enable the first respondent herein to walk away scot-free and reap all his retirement benefits irrespective of the fact that disciplinary proceedings for serious misdemeanor were pending against him.

2. The brief facts which are required to be noted are that the first respondent herein who was employed as Deputy Director of Sericulture, Salem District, Salem was proceeded against by way of disciplinary action for

certain serious acts of misconduct. In that, he was issued with four charge memos between the years 1986 and 1990. The charges were that he issued certain bogus purchase orders in respect of the purchases of cocoons, unauthorised transfer of money from one account to another, irregularities in disbursement of stipend to the farmer trainees, drawing and spending of monies without proper authorisation, and certain other charges.

3. In respect of the said charge memos, it is an undisputed fact that enquiries were ordered and the report of the Enquiry Officer was also sent on 10.1.1994. However, no final orders were passed till the year 2001. When the first respondent moved the State Administrative Tribunal in O.A.No.5356 of 2001 for a direction to finalise the disciplinary proceedings against him, by an order dated 23.8.2001, the Tribunal taking note of the undue delay in passing final orders directed the respondents therein, namely the Secretary, Handlooms, Handicrafts, Textiles and Khadi Department (petitioner herein), as well as the Director of Sericulture, Salem to pass appropriate orders within four months from the date of receipt of copy of the order. Nevertheless, final orders were not passed by the authorities concerned within the time stipulated by the Tribunal.

4. In the meanwhile, as the first respondent herein reached the age of superannuation on 30.4.1999, by proceedings dated 8.1.1999 and 30.4.1999, the petitioner herein sought to retain the first respondent in service for the purpose of concluding the disciplinary action initiated against him.

5. In as much as the petitioner herein failed to pass final orders, as per the direction of the Tribunal in its order dated 23.8.2001, and since the first respondent herein was not allowed to retire from service even after attaining the age of superannuation on 30.4.1999, the first respondent herein filed O.A.No.700 of 2002 challenging the proceedings dated 9.10.1997, whereby he was placed under suspension pending disciplinary action, and also the subsequent proceedings dated 8 .1.1999 as well as the one dated 30.4.1999 not permitting him to retire from service.

6. When the said O.A.No.700 of 2002 came up for orders before the Tribunal, the Government Advocate appearing on behalf of the petitioner herein made a request that three months time should be given to the petitioner herein for passing final orders. Accordingly, by order dated 22.3.2002, the time requested for on behalf of the petitioner herein, namely three months, was also granted to enable them to pass final orders. The three months time also expired by 22.7.2002, nevertheless, no final orders came to be passed by the petitioner herein.

7. It was under those circumstances, the first respondent herein filed Contempt Application in C.A.No.343 of 2002 before the Tribunal on 1.8.2002. In that Contempt Application, the Tribunal has now passed orders on 13.11.2002 holding that, inasmuch as the petitioner herein failed to pass final orders in spite of the time granted on earlier occasions, it will have to be held that the first respondent herein deemed to have retired with effect from 30.4.1999, with a further direction to disburse all the terminal benefits due to him. It is thus the first respondent herein, who was proceeded against

for certain serious allegations of misconduct involving financial implications in the course of discharge of his functions as a high official of the Handlooms, Handicrafts, Textiles and Khadi Department, is now allowed to go scot-free and walk away with all the terminal benefits irrespective of the fact that the disciplinary enquiry proceeded against him, in fact, reached almost a finality when the enquiry report came to be sent on 10.1.1994 itself.

8. Though there was no satisfactory explanation for not passing orders between 10.1.1994 and the year 2001, viz., for nearly 7 years, there is absolutely no justification in not passing any final orders at least after the Tribunal gave a direction to do so, by its order dated 23.8.2001 in O.A.No.5356 of 2001, granting four months time to pass final orders. Even thereafter, there is no reason as to why no orders were passed in the disciplinary proceedings against the first respondent herein when a further opportunity was given to the petitioner herein in the Tribunal's order dated 22.3.2002 in O.A.No.700 of 2002, when on behalf of the petitioner herein a specific request was made by the Government Advocate seeking three mo nths time to pass final orders. In such circumstances, we do not find any merit at all in these writ petitions seeking to challenge the orders of the Tribunal dated 23.8.2001, 22.3.2002 as well as the one dated 13.11.2002 in O.A.No.5356 of 2001, O.A.No.700 of 2002 and C.A.No.343 of 2002 respectively. These writ petitions are, therefore, dismissed in limine.

9. However, while dismissing these writ petitions, we express our deep anguish with the manner in which the petitioner herein had dealt with a serious disciplinary proceeding as against the first respondent herein involving financial implications, in such a callous, indifferent and irresponsible manner. We are, therefore, unable to leave it at that by merely dismissing these writ petitions.

10. In our opinion, the filing of these writ petitions appears to be only to get a final seal of approval on the total inaction displayed at the instance of the first respondent herein and we do not see any bona fide attempt even in the filing of these writ petitions. We, therefore, feel that appropriate action should be taken against the officials concerned to set things right. With that view, we direct the Chief Secretary to the Tamil Nadu State Government to take appropriate disciplinary action against the authorities concerned, whether it be the Secretary to the Government Handlooms, Handicrafts, Textiles and Khadi Department or whomsoever responsible for having allowed the matter to drift and thereby enabled the first respondent herein to go scot-free without any punishment. The Chief Secretary to the Tamil Nadu State Government, shall report to this Court about the appropriate action initiated and orders passed thereon within three months from the date of receipt of copy of this order. For that purpose, we direct the Registry to communicate this order to the Chief Secretary to the Tamil Nadu State Government, and also to retain these writ petitions and post them before us on 16.6.2003 for orders.

In the result, these writ petitions are dismissed in limine, with a direction to post the matter on 16.6.2003. No costs. Consequently, connected

W.P.M.P.Nos.8298 to 8300 of 2003 are also dismissed.

Index : Yes
Internet : Yes

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To:

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rep. by its Secretary to
Government, Handlooms,
Handicrafts, Textiles &
Khadi (G1) Department
Chennai-9.

2. The Registrar
Tamil Nadu Administrative Tribunal
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